

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICKY DALE ROUNDY,

Petitioner,

V.

ELDON VAIL,

Respondent.

No. 09-5001BHS/JRC

ORDER TO PROVIDE ADDITIONAL
BRIEFING

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C.

§ 2254. This case has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.

§§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrate Judges' Rules MJR 3 and MJR 4.

Petitioner is not challenging his conviction or sentence; instead he is challenging the amount of

restitution awarded in the criminal case and the accumulation of interest on that restitution while

he is incarcerated (Dkt. # 1 and 2). Rather than file an answer the respondent has moved to

dismiss the petition based on a running of the one-year state of limitations found in 28 U.S.C.

82244 (d) (Dkt. 10). The exhibits and argument appeared to be in order.

Order 1

1 In response to the motion to dismiss petitioner argues his case was not final in 2005, and
2 he supplies an order dated November 30, 2006. This order was entered ex parte with the
3 criminal cause number from his Lewis County conviction (Dkt # 17). This order shows
4 petitioner being appointed counsel for a preliminary hearing.

5 The parties need to explain entry of this order to the Court. A supplemental brief from
6 respondent will be due on or before May 22, 2009. A response from petitioner will be due on or
7 before June 5, 2009. An optional reply brief may be submitted by respondent on or before June
8 12, 2009. The motion to dismiss based on running of the statute of limitation found in 28 U.S.C.
9 § 2244 (d), (Dkt # 10), is re-noted for June 19, 2009, on the court's own motion.

11 The Clerk's Office is directed to send a copy of this order to petitioner at his new address
12 and note the motion to dismiss for June 19, 2009.

13 Dated this 20th day of April, 2009.



15 J. Richard Creatura
16 United States Magistrate Judge
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